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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

LACY T. et al., **Plaintiffs and Respondents,** **v.** **THE OAKLAND RAIDERS,** **Defendant and Respondent**; **JENNY C.,** **Objector and Appellant.**	**A144707** **(Alameda County Super. Ct. No. RG14710815)**

Lacy T. and Sarah G., two former Raiderettes, brought a class action lawsuit against The Oakland Raiders (The Raiders), alleging wage and hour violations (*Lacy T. et al., v. The Oakland Raiders,* Alameda County Superior Court, Case No. RG14710815 (*Lacy T.*)). The Raiders agreed to pay $1.25 million to settle the lawsuit and the trial court granted preliminary approval of the settlement agreement. Jenny C. — another former Raiderette and a plaintiff in a similar class action lawsuit against The Raiders and the National Football League (NFL) — objected. Over Jenny C.'s objections, the court approved the settlement.

Jenny C. appeals, contending: (1) there is insufficient evidence the settlement is reasonable; (2) the release in the settlement agreement is too broad; (3) the settlement is not fair, adequate, or reasonable; and (4) the settlement agreement is unenforceable as a matter of law.

We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

As relevant here, The Raiders employed a cheerleading squad, the Raiderettes, from 2010 to 2015. The Raiders hired a new Raiderettes squad each football season, but some women worked as Raiderettes for multiple seasons. Lacy T. was a Raiderette during the 2013-2014 season. Sarah G. was a Raiderette from 2010 to 2014. Caitlyn Y. was a Raiderette from 2010 to 2015. Jenny C. was a Raiderette in the 2012 and 2013 seasons.

Lacy T.

In 2014, Lacy T. filed a complaint against The Raiders on behalf of a class of 90 Raiderettes (plaintiffs or class members). The operative second amended complaint (complaint), which included Sarah G. as a class representative, alleged 11 claims for violations of the Labor and Business and Professions Codes, including failure to pay minimum wage, failure to pay overtime compensation, failure to reimburse for business expenses, and failure to provide meal and rest breaks. The complaint also alleged claims under the Private Attorney Generals Act (Lab. Code, §§ 2699, et seq., (PAGA)).

The Raiders moved to compel Lacy T. and Sarah G. to arbitrate their individual claims and dismiss their representative and class claims. Lacy T. and Sarah G. opposed the motion. Before the court heard the motion, plaintiffs and The Raiders (the parties) agreed to mediate and, if necessary, arbitrate. The parties scheduled a July 2014 mediation date.[1]

Caitlin Y.

The day after the parties agreed to mediate, a second class action complaint was filed on behalf of the same class of Raiderettes, against the NFL and The Raiders, *Caitlyn Y. and Jenny C. et al., v. The National Football League et al.*, Alameda Superior Court

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[1] The trial court continued the hearing on the motion until the California Supreme Court's decision in *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348 (*Iskanian*), which concerned whether an arbitration agreement may require an employee to waive her rights to bring representative PAGA claims. The parties agreed to mediate shortly before the Supreme Court decided *Iskanian*.

Case No. RG14727746 (*Caitlyn Y.*)). The *Caitlyn Y.* allegations mirrored those in *Lacy T.*, except *Caitlyn Y.* also alleged: (1) The Raiders violated an Industrial Welfare Commission wage order by failing to provide the Raiderettes with adequate changing and storage facilities; (2) The Raiders and the NFL jointly employed the Raiderettes; and (3) The Raiders and the NFL violated the Cartwright Act (Bus. & Prof. Code, § 16720) by restraining trade and depressing the Raiderettes' wages.[2]

The Lacy T. Settlement and Preliminary Approval

Before the July 2014 mediation, the parties exchanged over 1,000 pages of documents, including contracts signed by plaintiffs, documents reflecting hours plaintiffs worked and expenses they incurred, and The Raiders' personnel policies and payroll records. After a mediation session and weeks of additional "arms-length bilateral negotiations," the parties reached a tentative settlement. The parties executed a settlement and release agreement in September 2014 (settlement agreement).

Pursuant to the settlement agreement, The Raiders agreed to pay $1.25 million to settle the case. Approximately 63 percent of that amount — $792,000 — would be allocated to plaintiffs, and would be distributed based on a formula tied to the season or season in which the particular class member worked. With the exception of five class members who worked a partial season, each class member who worked at least a full season would receive between $2,459.63 and $20,633.54.[3]

Of the $1.25 million, $400,000 would be allocated for plaintiffs' attorney fees, $23,000 for litigation expenses, and $7,500 for administrative costs. The amount allocated for PAGA penalties was $10,000, of which $2,500 would be allocated to

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[2] In October 2014, the trial court granted The Raiders' motion to compel arbitration and dismissed all the class claims against The Raiders except the PAGA claims. The court stayed the PAGA claims pending completion of arbitration.

[3] A portion of the payment made to each class member would be allocated to unpaid wages, from which taxes and deductions would be taken; additional sums paid to each class member would be allocated to unreimbursed expenses, interest on expenses, unpaid wages, and penalties, which would not be taxable as wages.

plaintiffs. Lacy T. and Sarah G. would each receive a $10,000 participation payment, in addition to the amount they would receive as class members.

The settlement agreement included the following Civil Code section 1542 release: "Final Settlement Class Members waive all unknown claims falling within the scope of the claims described in this Paragraph [ ], and therefore waive all rights under California Civil Code section 1542, which states: **'A general release does not extend to claims which the creditor does not know or suspects to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.'"**

The parties moved for preliminary approval of the settlement agreement. At a hearing on the motion, the court ordered the parties to revise the settlement agreement to delete the Civil Code section 1542 waiver.[4] The parties revised paragraph 15 (the release) to eliminate the reference to Civil Code section 1542:

"15. Class Members' Release Of Claims: In consideration of the terms and conditions of the Settlement, effective as of the date of Final Approval of the Settlement, the Final Settlement Class Members hereby forever completely release and discharge The Raiders and all Released Persons from all claims and causes of action asserted in the Second Amended Complaint, all claims and causes of action related in any way to the facts, claims, and causes of action alleged in this Litigation, even if presently unknown or unasserted, and all claims and causes of action that could have been pled in this Litigation. The matters released include, but are not limited to, any claims or causes of action under state and federal wage-and-hour laws or other laws affecting working conditions, the California Labor Code, all applicable Industrial Welfare Commission Wage Orders (including Wage Order 10-2001), the California Business & Professions Code, or The Private Attorneys General Act, Labor Code Section 2698, et seq. This release by Final Class Members specifically includes without limitation any claims or

[4] We grant The Raiders' unopposed request for judicial notice of the court's tentative ruling on the motion for preliminary approval of the settlement agreement. (Evid. Code, § 452.)

causes of action based on or related to the allegation that The Raiders, either alone or with others, adopted or imposed illegal provisions relating to wages or working conditions of Raiderettes, and that such provisions gave The Raiders an unfair competitive advantage over other employers or competitors."

The parties submitted the modified settlement agreement and the court granted preliminary approval. It concluded the settlement "appears to have been the product of serious, informed and extensive arm's-length negotiations between the Parties and is well within the range of possible final approval . . . it appears at this stage to be fair, adequate and reasonable . . . ." An independent claims administrator notified all class members. Two class members — including Caitlyn Y. — opted out of the settlement.

Jenny C.'s Objections and the Parties' Motion for Final Approval

Jenny C. objected. As relevant here, she claimed: (1) requiring a wage claimant to release unpaid wage claims violated California law and public policy; (2) the settlement was overbroad and unenforceable because it released plaintiffs' claims against the NFL, which was not a defendant in *Lacy T.*; and (3) the settlement was not fair, adequate, or reasonable. According to Jenny C., the settlement undervalued plaintiffs' damages, failed to provide her with an incentive payment, did not enjoin future illegal employment conduct, and did not redress the lack of changing facilities and inadequate security.

Additionally, Jenny C. claimed the class notice was inadequate because it did not identify the release of claims not alleged in *Lacy T.* In a supporting declaration, Phillip Allman, Ph.D., averred the settlement underpaid plaintiffs between $2,122,230 and $3,243,041. In their response to Jenny C.'s objections, the parties reiterated the reasons the settlement was fair and reasonable. Plaintiffs' counsel offered a declaration listing the documents the parties exchanged before the mediation, as well as the amount of time plaintiffs' counsel and their expert spent "reviewing, analyzing and assessing the . . . documents" and preparing "damage formulations and computations." Plaintiffs' counsel also explained the calculation of Lacy T. and Sarah G.'s expenses.

The parties moved for final approval of the settlement. Among other things, the parties argued the settlement was the product of arms'-length and informed negotiations,

and that it fairly resolved plaintiffs' claims by providing "substantial financial relief" to a class of "part-time employees at minimum wage." The parties also claimed the settlement was reasonable in light of the risks of litigation, and detailed those risks. Additionally, the release was appropriate because it disposed of the claims in the complaint "or those that are related to the claims alleged, or that could have been pled, based upon the facts alleged" in the complaint. They explained: "The [r]elease encompasses the wage and hour claims asserted in *Caitlyn Y.* . . . which are either duplicative of, or based on, the same transactions and occurrences underlying [p]laintiffs' causes of action. The [r]elease does not, however, extend to claims which are unrelated to the facts or claims asserted in the [operative complaint]."

The parties also argued the amount of the settlement was adequate. Describing Allman's calculations as "artificially inflated" and "based upon false and inaccurate assumptions," the parties contended the calculations: (1) used an inaccurate number of class members; (2) inflated the class members' practice hours; (3) inflated the hourly wage to which class members were entitled; and (4) disregarded wages and overtime paid to the Raiderettes in 2013 and 2014. The parties also claimed the fines and penalties in Allman's computations were "unsubstantiated" and "inaccurate."

Hearing and Order Approving the Settlement

At the final approval hearing, counsel for *Jenny C.* argued the amount of the settlement was inadequate, partly because plaintiffs should have been paid up to $20 an hour, not minimum wage. The court responded: "[I]n deciding whether the amount is adequate, I don't try the case. . . . What I look at is what is the plaintiff's best day and what's the plaintiff's worst day. . . . [A]nd then I ask is the settlement in the ball park, and my main concern with the objector's position is it might be read as judging the settlement against plaintiff's best day as opposed to whether it is in the ball park defined by their worst day[.]" Plaintiffs' counsel contended the settlement was "more than fair to the class" because class members "got . . . paid for every single hour that they worked" and a penalty payment, and "interest . . . and . . . their expenses reimbursed to a great extent."

Jenny C.'s counsel also claimed the release was too broad. During a dialogue with the court, counsel for The Raiders explained the "intent of the release" was to be "as broad as possible," i.e., to "cover any claims, whether they were brought or not, that were based on or arise out of the same factual allegations in this . . . case." The Raiders' counsel noted the release would bar the Cartwright claim alleged in *Caitlyn Y.* because the "factual predicate to that claim is that all of these alleged wage and hour and working condition violations . . . violate[ ] the anti-competitive provisions of the Cartwright Act, which is another section of the Business and Professions Code." Counsel also argued the release would bar *Caitlyn Y.*'s claim that the NFL conspired with The Raiders to deprive plaintiffs of appropriate compensation. *Caitlyn Y.*'s claim regarding "adequate changing rooms," however, was "outside" the scope of the release.

Toward the conclusion of the hearing, the following colloquy occurred:

"THE COURT: I understand you to be saying that the intent of the parties in this case is to use the words 'related to' to encompass legal theories not plead but based on the same factual predicate.

"[The Raiders' Counsel]: Correct.

"THE COURT: . . . You are stating that was how you intended that phrase to be understood?

"[The Raiders' Counsel]: Correct.

"THE COURT: And . . .

"[The Raiders' Counsel]: . . . [I]f you wanted to change 'relating in any way,' you could have changed it to 'that arise out of.' It's mentioned a couple of times in paragraph 15 of –

"THE COURT: Use 'any and all claims, however characterized, that arise out of the same set of operative facts.'

[¶] . . . [¶]

"[The Raiders' Counsel]: We say 'that could have been pled in this litigation.' We put a period. . . . [W]hat we intended by that was if you continue that sentence 'based on or arising out of the facts alleged in this litigation,' so you

could add that qualifying . . . kind of language. There are things that we could do to this to make those minor changes, and I made a couple and penciled a few in, but I think we're on the same page in terms of understanding.

"THE COURT: Does the plaintiff disagree with the construction of the 'related to' language articulated by Raiders counsel?

"[Plaintiffs' Counsel]: . . . We agree."

Based on the parties' clarification that the release encompassed claims arising from the same factual predicate as the claims alleged in *Lacy T.*, the court agreed no additional notice to the class was required. In a written order, the court overruled Jenny C.'s objections and approved the settlement, with the clarification that the release extended only to claims and causes of action based on or arising out of the facts and claims alleged in *Lacy T.*

DISCUSSION

I.

General Principles and Standard of Review

"The settlement of a class action requires court approval to prevent fraud, collusion, or unfairness to the class. [Citation.] 'The court must determine the settlement is fair, adequate, and reasonable. [Citations.] The purpose of the requirement is "the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties." [Citation.]' [Citation.] '"The court has a fiduciary responsibility as guardian [ ] of the rights of the absentee class members when deciding whether to approve a settlement agreement." [Citations.]' [Citation.]" (*Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1117.)

"'The trial court has broad discretion to determine whether the settlement is fair. [Citation.] It should consider relevant factors, such as the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the

proposed settlement. [Citation.] . . . Due regard should be given to what is otherwise a private consensual agreement between the parties. The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." [Citation.]' [Citations.] '[A] presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. [Citation.]' [Citations.] 'Public policy generally favors the compromise of complex class action litigation. [Citation.]' [Citations.]" (*Cellphone Termination Fee Cases*, *supra*, 180 Cal.App.4th at pp. 1117-1118.)

We review the trial court's approval of a class action settlement for abuse of discretion. (*Cellphone Termination Fee Cases*, *supra*, 180 Cal.App.4th at p. 1118.) "'We do not reweigh the evidence or substitute our notions of fairness for the trial court's. [Citations.] "To merit reversal, both an abuse of discretion by the trial court must be 'clear' and the demonstration of it on appeal 'strong.'" [Citation.]' [Citation.] 'Our review of the trial court's approval of a class action settlement is limited in scope. We make no independent determination whether the settlement terms are "fair, adequate and reasonable," but only determine whether the trial court acted within its discretion. [Citation.]' [Citation.]" (*Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 581.)

II.

The Court Possessed Sufficient Information to Conclude the Settlement Was Reasonable

Jenny C. contends the court erred by concluding the settlement was reasonable, apparently because the parties did not "explain their position on the amount in

controversy."[5] We are not persuaded. Before approving the settlement agreement, the court knew: (1) the parties exchanged voluminous documents regarding the work performed by plaintiffs during the class period; (2) plaintiffs' counsel and expert spent a significant amount of time analyzing that information, to determine the total number of hours worked by class members, the total amount of unpaid wages, the amount of unreimbursed expenses claimed by Lacy T. and Sarah G., and the maximum amount of penalties available; and (3) the settlement represented a 100 percent recovery for unpaid wages, 60 percent recovery for claimed expenses, interest, and penalties.

Based on this information, the "factual record before the [trial] court" was "sufficiently developed to allow the court independently to satisfy itself 'that the consideration being received for the release of the class members' claims [was] reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation.'" (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 410 (*Munoz*), quoting *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129 (*Kullar*).) The parties were not — as Jenny C. suggests — required to produce a report from an "independent damages analyst" or provide "underlying documents" substantiating the damages calculations. Nor were the settling parties required to produce "timekeeping records" reflecting hours worked and wages paid. "[T]he decisionmaking process in class actions is not, generally speaking, transparent to the unnamed class members, whether the decisions relate to litigation strategy or the settlement process." (*Cellphone Termination Fee Cases, supra,* 180 Cal.App.4th at 1122.) Here, the information before the court was sufficient to allow it to make an informed, independent decision the settlement was reasonable.

Jenny C. relies on *Kullar, supra,* 168 Cal.App.4th 116, which concerned the settlement of a class action brought on behalf of employees of Foot Locker Retail Inc.

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[5] Jenny C. does not argue the settlement is not entitled to a presumption of fairness. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802 (*Dunk*) [describing when a class action settlement is entitled to a presumption of fairness].)

(the store). (*Id.* at p. 121.) Before settling, the plaintiffs propounded discovery, but the store's responses consisted mostly of objections and the store did not produce the employees' time records. (*Id.* at pp. 122, 129.) The plaintiffs took no depositions. (*Id.* at p. 122.) A stipulation of settlement filed with the court indicated the plaintiffs' counsel had inspected and analyzed documents and data provided by the store, interviewed material witnesses, and researched the relevant claims, but offered no specifics regarding what documents or data were produced or who was interviewed. The stipulation did not attach a declaration describing the nature of the plaintiffs' counsel's investigation, (*id.* at p. 122, fn. 2) and the parties did not give the court "any estimated quantification of the number of one-hour-pay penalties that might be due or any explanation of the factors that were considered in discounting the potential recovery for purposes of settlement." (*Id.* at p. 129.)

A division of this court held the information was insufficient to approve the settlement agreement. (*Kullar, supra,* 168 Cal.App.4th at p. 129.) As *Kullar* explained, "there was nothing before the court to establish the sufficiency of class counsel's investigation other than their assurance that they had seen what they needed to see. The record fails to establish in any meaningful way what investigation counsel conducted or what information they reviewed on which they based their assessment of the strength of the class members' claims, much less does the record contain information sufficient for the court to intelligently evaluate the adequacy of the settlement." (*Ibid.*)

Kullar is distinguishable. There, the parties failed to provide the trial court with "basic information about the nature and magnitude" of the claims alleged, and the basis for concluding the "consideration being paid for the release of those claims represent[ed] a reasonable compromise." (*Kullar, supra,* 168 Cal.App.4th at p. 133.) Here and in contrast to *Kullar,* the record allowed "an understanding of the amount . . . in controversy and the realistic range of outcomes of the litigation." (*Id.* at p. 120; see also *Munoz, supra,* 186 Cal.App.4th at p. 409 [distinguishing *Kullar*].) Jenny C.'s reliance on *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 is similarly misplaced.

III.

The Scope of the Release is Appropriate

Despite conceding the release extends "only to claims based on those facts pled" in *Lacy T.*, Jenny C. claims the release is too broad. As stated above, the release extends to "claims and cause of action that are based on or arise out of the facts, claims, and causes of action alleged in this case, or claims and causes of action that could have been plead, even if presently unknown or unasserted, based on or arising out of the facts and claims alleged in this case."

The scope of the release is appropriate. "'A clause providing for the release of claims may refer to all claims raised in the pending action, *or* it may refer to all claims, both potential and actual, that *may have been raised* in the pending action with respect to the matter in controversy.' [Citation.] . . . '. . . [A] court may release not only those claims alleged in the complaint and before the court, but also claims which "*could have been alleged* by reason of or in connection with any matter or fact set forth or referred to in' the complaint. . . . And it has been held that even when the court does not have power to adjudicate a claim, it may still "approve release of that claim as a condition of settlement of [an] action [before it].'" [Citation.]" (*Villacres v. ABM Industries Inc.* (2010) 189 Cal.App.4th 562, 586 (*Villacres*). Jenny C.'s attempt to distinguish *Villacres* is unavailing and we are not persuaded by her reliance on federal district court cases.

According to Jenny C., the release is too broad because it "arguably releases . . . antitrust claims pled in . . . *Caitlyn Y.*" and claims asserted against the NFL. We disagree. "'[A] judgment pursuant to a class settlement can bar [subsequent] claims based on the allegations underlying the claims in the settled class action. This is true even though the precluded claim *was not presented*, and *could not have been presented*, in the class action itself.'" (*Villacres, supra,* 189 Cal.App.4th at p. 586; see also *Williams v. Boeing Co.* (9th Cir. 2008) 517 F.3d 1120, 1134 [release could properly bar "subsequent 'claims relying upon a legal theory different from that relied upon in the class action complaint, but depending upon the same set of facts'"]; *Carter v. City of Los*

Angeles (2014) 224 Cal.App.4th 808, 820 [general releases "covering 'all claims' that were or could have been raised" are "common in class action settlements"].)

Jenny C.'s reliance on *Trotsky v. Los Angeles Fed. Sav. & Loan Assn.* (1975) 48 Cal.App.3d 134 does not compel a different conclusion. That case held an "attempt to include in a class settlement terms which are outside the scope of the operative complaint should be closely scrutinized by the trial court to determine if the plaintiff genuinely contests those issues and adequately represents the class." (*Id.* at p. 148.) Here, the court "closely scrutinized" the release and the parties clarified the scope and "effect of" the release when moving for final approval of the settlement. (*Ibid.*)

We reject Jenny C.'s complaint about the scope of the release.[6] (See *Munoz, supra,* 186 Cal.App.4th at pp. 404, fn. 2, 411 [release, which barred claims asserted or that could have been asserted, was not "overly broad"].)

IV.

The Court Did Not Abuse its Discretion by Concluding the Settlement was Fair, Adequate, and Reasonable

Jenny C. claims the settlement is not fair, adequate, or reasonable because the settlement represented only a fraction of the "full value" of plaintiffs' claims. According to Jenny C., the settlement undervalues plaintiffs' damages, expenses, and their entitlement to PAGA and non-PAGA penalties, and interest. She also contends the settlement "fail[s] to value any claims against the NFL." The problem with this argument is it ignores the scope of our review. Our inquiry on appeal "is limited to a review of the trial court's approval for a clear abuse of discretion. [Citations.] We will not 'substitute our notions of fairness for those of the [trial court] and the parties to the agreement. [Citations.]' [Citation.]" (*Dunk, supra,* 48 Cal.App.4th at p. 1802.)

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[6] Whether the release encompasses the antitrust claims alleged in *Caitlyn Y.* is not before us and we decline Jenny C.'s request to clarify the scope of the release or "remand with instructions as to how the release should be interpreted by future courts."

Jenny C.'s disagreement with the settlement amount does not demonstrate the settlement is inadequate. "'The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.' [Citation.]" (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1150.) "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 246.) In the trial court, Jenny C. impermissibly judged the settlement against plaintiffs' "best day as opposed to whether it is in the ball park defined by their worst day and their best day." On appeal, she has not established the court abused its discretion by concluding the settlement was fair, adequate, and reasonable. We reject Jenny C.'s claim — unsupported by authority — that the settlement is inadequate because it does not enjoin "future illegal employment conduct" by The Raiders "and their agents."

V.

The Settlement is Not Unenforceable

Jenny contends the settlement is unenforceable because it requires plaintiffs to release their claims for unpaid wages in violation of Labor Code section 206.5. The statute provides in relevant part: "An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made." An employer may not withhold wages concededly due in order to coerce settlement of a wage dispute, but employees are permitted to release claims to past wages "as part of a settlement of a bona fide dispute over those wages." (*Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796, 803.)

Here, there is a bona fide dispute over whether wages are due. Lacy T. and Sarah G. alleged claims for unpaid wages and unreimbursed expenses, and The Raiders did not concede the wages sought were due. Moreover, The Raiders contended all Raiderettes who worked during the 2013-2014 season were paid for all hours worked, yet the

settlement allocates 7 percent of the recovery for Raiderettes working during the 2013-2014 to unpaid wages. Even as to the 2013-2014 class, which received compensation, there is a bona fide dispute as to the amount of wages owed. The settlement concerns allegedly unpaid wages over which the parties have a good faith dispute and, as a result, it does not violate Labor Code section 206.5.[7]

DISPOSITION

The judgment is affirmed. Respondents are entitled to costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1).)

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Jones, P.J.

We concur:

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Needham, J.

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Bruiniers, J.

[7] Lacy T. and Sarah G. seek $181,649.30 in sanctions against Jenny C.'s attorney, for filing a frivolous appeal with an "improper motive" in violation of Rules of Court, rule 8.276. Appellate courts have discretion to impose sanctions where a litigant files an appeal that is "frivolous . . . or . . . solely to cause delay." (Cal. Rules of Court, rule 8.276(a)(1); Code Civ. Proc., § 907.) An appeal is frivolous "when it is prosecuted for an improper motive . . . or when it indisputably has no merit." (*In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 650).) We decline to sanction Jenny C.'s attorney. The merits of Jenny C.'s appeal are minimal, but sanctions "should be used most sparingly to deter only the most egregious conduct." (*Id.* at p. 651.)